IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 472 of 1999

Between:

Gayatri Estates Residents Welfare Association(Reeng,No.33/98 rep.by it's President, Dr.P. Purnachandra Rao, Gayatri Estates, Kurnool.

..... PETITIONER

AND

The Commissioner, Municipal Corporation of Kurnool,
Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction directing the respondent not to insist upon the members of the petitioner association to pay the penal charges determined pursuant to G.O.Ms.No.419 MA dt.30.7.98 by declaring the action of the Respondent in insisting upon the members of the petitioner association to pay development charges and other penal amounts contrary to the guidelines contained in G.O.Ms.No.490/MA, dt.30.7.98 as arbitrary, illegal and unconstitutional.

Counsel for the Petitioner: MR.T.NIRANJAN REDDY

Counsel for the Respondent: MR. A. SRIDHAR, Standing Counsel for Municipal Corporation of Kurnool

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.472 OF 1999

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ORDER:

Gayatri Estates Residents Welfare Association, Kurnool, filed the present writ petition seeking a direction to Municipal Corporation of Kurnool, the respondent herein, not to insist upon the payment of penal charges by its members, determined by the Corporation pursuant to the Government Orders in G.O.Ms.No.419, Municipal Administration & Urban Development (M1) Department, dated 30.07.1998.

It is the case of the petitioner association that it is a society registered under the Societies Registration Act, 1860, that Gayatri Estates developed land after obtaining approval of layout being LP No.83/93 and that some of the persons, who purchased flats in Gayatri Estates made certain deviations. It is their further case that after the Government of Andhra Pradesh issued G.O.Ms.No.419 dated 30.07.1998, introducing Building Regularisation Scheme (BRS), some of the members who admittedly deviated from the construction plans, made applications seeking regularisation. The respondent Corporation issued an endorsement to all the members, who made such applications, in November and December, 1998 informing them to pay penal amount, developmental charges and building licence fee for the purpose of regularisation of unauthorized constructions/deviations. Aggrieved by such endorsement, especially the demand for payment of developmental charges and building licence fee, the present writ petition is filed. Though this Court ordered *Rule nisi,* which is duly served on the respondent Corporation and which is represented by Standing Counsel, no counter affidavit is filed.

The Government of Andhra Pradesh issued G.O.Ms.419 facilitating individuals to get the unauthorized constructions made upto 30.06.1998 regularised by paying the penal amount prescribed in the said Government Order. Municipal Corporation of Kurnool falls in category II mentioned in the said orders, according to which, if the

flat area is above 60 square meters (645.6 square feet), the penal amount of Rs.8,000/- (Rupees eight thousand only) is payable and if the flat area is less than 60 square meters, the amount payable is Rs.6,000/- (Rupees six thousand only) per square meter. Insofar as the decision of the Corporation to collect penal amount is concerned, the petitioner does not raise any objections. However, the endorsement issued by the Corporation also advised the flat owners to pay developmental charges and building licence fee. The Government Order does not authorize the same. Be that as it is, admittedly the members of the petitioner association made individual applications and the Corporation issued endorsement in relation to each of the applicants. Therefore, the writ petition at the behest of the society is not maintainable. However, liberty is given to applicants/flat owners (members of the petitioner association) to approach the Municipal Corporation of Kurnool for proper redressal. As and when such applications are made, the Commissioner, Municipal Corporation of Kurnool, shall consider the same and also give due credit to the amounts, if any paid by the applicants pursuant to the interim orders of this Court in W.P.M.P.No.538 of 1999 dated 19.01.1999.

The writ petition, with the above observations, is dismissed.

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(V.V.S.RAO,J)

30.09.2004.

pln

To

1. The Commissioner, Municipal Corporation of Kurnool, Kurnool District.
2. 2 CD copies.